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***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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+ WRIT PETITION No: 2546 of 1997

% Dated 24.02.2006

Sterling Tree Magnum (India) Limited.

…….. PETITIONER

$ Sub-Registrar and another.

…….RESPONDENTS

! Counsel for the petitioner: Sri B.Adinarayana Rao

^ Counsel for the respondents: Government Pleader for Revenue

< GIST:

> HEAD NOTE:

? Cases referred:

1996 (3) ALT 9760 (D.B)

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DATED: 24.02.2006

Between:

Sterling Tree Magnum (India) Limited.

... PETITIONER

AND

Sub-Registrar and another.

... RESPONDENTS

ORDER:

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The petitioner is a Company incorporated under the Indian Companies Act. As a part of its activity, it purchases lands, develops forests and sells bits of the same, to the intending purchasers. It purchased vast extent of land in Survey Nos.20,40, 41, 42 and 46 of Sangamvalasa Village, Parvathipuram Mandal, Vijayanagaram District, through several sale deeds between 14.02.1994 to 11.03.1994. The consideration was about Rs.14,000/- per acre.

When one of the sale deeds, dated 23.03.1995, executed by the petitioner, in favour of the intending purchaser, was presented for registration, the registering authority, 1st respondent herein, took the view that the stamp duty and the registration charges, need to be paid on yard basis, treating the subject

matter of the sale deed as house site. Reference under Section 47-A of the Indian Stamp Act, 1899 (for short 'the Act'), came to be made.

The authority under Section 47-A of the Act had before it, the opinion rendered by a Committee constituted by the District Collector, for this purpose. The Committee recommended that the market value be taken at Rs.2,00,000/- per acre. The authority passed a detailed order, dated 23.03.1996, and arrived at a conclusion that the market value of the property be taken at Rs.40,000/- per acre. On the basis of this order, the sale deed, which gave rise to the reference, was released, on payment of the corresponding stamp duty and registration charges.

The petitioner presented number of other sale deeds in respect of various bits of land in the above said Survey Numbers. The 1st respondent herein, however, made a reference in respect of each document and while making such reference, he remarked that as per the Government guidelines, the market value of the property needs to be taken at Rs.2,0,000/- per acre. The petitioner challenges the action of the 1st respondent. It contends that once the competent authority under Section 47-A of the Act had determined the market value, in a reference made to him, in respect of the land in one of the above said Survey Numbers, it is not open to the 1st respondent to make reference, when other sale deeds are presented, in respect of different bits of land in the said Survey Numbers.

In the counter affidavit, filed on behalf of the respondents, it is stated that the order, dated 23.03.1996, has to be treated as the one for the sale deed concerned, and it cannot be treated as a general pronouncement.

The learned counsel for the petitioner submits that after an elaborate exercise of evaluation of the land cost and the inputs that were made to it in the process of development, the competent authority has determined the market value at Rs.40,000/- per acre and that the petitioner accepted the same. He contends

that the market value arrived at by the competent authority in respect of one bit of the land in the said Survey Numbers must hold good for other bits also and that there does not exist any justification for the 1st respondent in making reference, in respect of each and every sale deed.

The learned Government Pleader for Revenue, on the other hand, submits that even if there exist any similarities between various transactions, adjudication undertaken under Section 47-A of the Act cannot be treated as general.

On a reference made by the 1st respondent in respect of the sale deed presented by the petitioner herein proposing to sell a bit of land in one of the Survey Numbers referred to above, the Revenue Divisional Officer has undertaken discussion and comparison. The value of the land, the cost of inputs, cost incurred for levelling and developing the land etc., were taken into account and ultimately the marked value was fixed at Rs.40,000/- per acre. In other words, there is a variation of Rs.26,000/- per acre, compared to the cost at which the petitioner purchased the land. The said order became final.

When such an elaborate exercise undertaken by the competent authority is not confined to a small bit of the land, which was sought to be sold, but to the entire land purchased by the petitioner in various Survey Numbers, there does not any justification for the 1st respondent in making the reference under Section 47-A of the Act, in respect of each and every subsequent transaction. Things would have been different, had anything been indicated to the effect that variation as to value of the properties proposed to be sold has taken place subsequent to 23.03.1996. Neither the order of reference nor the annexure enclosed to it indicates anything to that effect. The observation made by a Division Bench of this Court in ***Mohd. Abbas Shafi vs. Sub-Registrar*** supports this view.

Hence, the Writ Petition is allowed, as prayed for. There shall be no order as to costs.

24.02.2006

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